

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

JENNIFER PETERSON, )  
Plaintiff, )  
vs. ) Cause No: 1:22-CV-1508  
TMS RACING, INC., )  
Defendant. )

**PLAINTIFF'S COMPLAINT FOR DAMAGES**

Plaintiff, Jennifer Peterson, by counsel, and for her cause of action against Defendant, TMS Racing, Inc. ("TMS"), hereby states as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff, Jennifer Peterson, is a resident and citizen of Florida, domiciled at 125 22nd Avenue, St. Petersburg, FL 33074, in Pinellas County, Florida.
2. Defendant, TMS, is a Massachusetts corporation with its principal place of business located at 9A Puzzle Lane, Newton, NH 03858, in Rockingham County. Thus, TMS is a citizen of the State of Massachusetts and the State of New Hampshire.
3. This Court has jurisdiction pursuant to 28 U.S.C. § 1332, in that there is complete diversity of citizenship and the amount in controversy exceeds \$75,000, exclusive of interest and costs.
4. Venue is proper within this district pursuant to 28 U.S.C. § 1391 because the events giving rise to this action occurred in Marion County, located in the Southern District of Indiana.

**SUMMARY OF FACTS**

5. Plaintiff realleges and incorporates by reference paragraphs one (1) through four (4) above.

6. On August 31, 2021, Plaintiff, Jennifer Peterson, was an independent contractor working for Defendant, TMS, at the Indianapolis Motor Speedway located at 4790 W. 16th St., in the City of Indianapolis, County of Marion, IN 46222.

7. On August 31, 2021, an employee of Defendant TMS, James Gray, drove a motor vehicle—often called a “tugger” and/or Taylor-Dunn—at the Indianapolis Motor Speedway located at 4790 W. 16th St., Indianapolis, IN 46222.

8. Defendant, TMS, owned the motor vehicle driven by James Gray, and James Gray drove the motor vehicle in the course and scope of employment for Defendant, TMS.

9. The motor vehicle driven by James Gray did not have side rails, which come standard on tuggers to protect passengers and operators.

10. On August 31, 2021, Plaintiff, Jennifer Peterson, was a passenger on the motor vehicle being driven by James Gray, at the Indianapolis Motor Speedway.

11. While sitting as a passenger, Jennifer suddenly, and without warning was thrown off of the motor vehicle after James Gray made a sudden turn, causing Jennifer to suffer significant and permanent injuries.

#### **COUNT I – RESPONDEAT SUPERIOR OF TMS**

12. Plaintiff hereby realleges and incorporates by reference paragraphs one (1) through eleven (11).

13. At all times relevant herein, James Gray was an employee of Defendant TMS.

14. At all times relevant herein, James Gray was acting within the scope and course of his employment for Defendant, TMS, resulting in Defendant, TMS, being vicariously liable for James Gray's negligence.

15. TMS, by and through its employee, was careless and negligent in one or more of the following respects:

- a. Operating a motor vehicle at an improper speed;
- b. Failing to maintain a proper lookout for other vehicles at the Indianapolis Motor Speedway;
- c. Failing to maintain proper control over a motor vehicle; and
- d. Failing to use reasonable care in the operation of a motor vehicle.

16. As a direct and proximate result of the negligence and carelessness of the Defendant, TMS, Plaintiff, Jennifer Peterson, has suffered severe and permanent injuries and impairment, endured severe physical and emotional pain and suffering, incurred significant medical expenses, lost wages, and will continue to suffer those injuries and losses in the future.

WHEREFORE, Plaintiff, Jennifer Peterson, prays for judgment against Defendant, TMS, in an amount that will fully and fairly compensate Plaintiff for her damages, costs of this action, interest as allowed by law, and all other relief that is just and proper in the premises.

**COUNT II – DIRECT NEGLIGENCE OF TMS**

17. Plaintiff hereby realleges and incorporates by reference paragraphs one (1) through sixteen (16) above.

18. Defendant, TMS, owed a duty to maintain a safe work environment including providing safe equipment, machinery, and motor vehicles for the use of employees.

19. Defendant, TMS, was careless and negligent in one or more of the following respects:

- a. Improperly removing side rails from the motor vehicle;
- b. Failing to equip the motor vehicle with side rails; and
- c. Failing to maintain a safe place to work.

20. As a direct and proximate result of the negligence and carelessness of the Defendant, TMS, Plaintiff, Jennifer Peterson, has suffered severe and permanent injuries and impairment, endured severe physical and emotional pain and suffering, incurred significant medical expenses, lost wages, and will continue to suffer those injuries and losses in the future.

WHEREFORE, Plaintiff, Jennifer Peterson, prays for judgment against Defendant, TMS, in an amount that will fully and fairly compensate Plaintiff for her damages, costs of this action, interest as allowed by law, and all other relief that is just and proper in the premises.

Respectfully submitted,

WILSON KEHOE WININGHAM LLC

*/s/ William E. Winingham*  
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